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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB

**JOINT ADMINISTRATIVE MOTION
FOR AN ORDER REGARDING THE
PARTIES' SUBMISSIONS ON
DISCOVERY DISPUTES**

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

1 Plaintiffs and Defendants Uber Technologies, Inc. and Rasier, LLC respectfully submit this
2 joint administrative motion to request guidance from the Court on its preference for the Parties'
3 submissions on discovery disputes arising from third party subpoenas served by Plaintiffs.

4 On the week of April 16, 2024, Plaintiffs served subpoenas on thirty non-parties. Thematically,
5 in terms of the information requested, these subpoenas fall into five general categories of entities:
6 (1) lobbying firms and law firms, (2) plaintiff attorneys handling other cases against Uber,
7 (3) contractors that worked with Uber in varying capacities, (4) sexual violence advocacy
8 organizations, and (5) Lyft.

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10 The Parties agree and believe that third parties are not governed by PTO 8 and thus may file
11 their own motions. In an effort to minimize motion practice, Plaintiffs and Uber have held weekly
12 meet and confers to work through as many disputes over the subpoenas as possible, and Plaintiffs have
13 further been meeting and conferring with every non-party that reaches out. Uber intends to file motions
14 to quash the subpoenas.

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16 Plaintiffs granted Uber and the third parties an initial extension on the compliance date listed
17 in the subpoenas until May 31. The Parties further agreed to raise disputes as between them regarding
18 the third-party subpoenas to the Court by May 31. The Parties agree that the briefing provisions of
19 PTO 8 should be modified in order to present the issues to the Court in the clearest and most efficient
20 manner. The Parties have differing views on the format of the PTO 8 submissions and seek the Court's
21 guidance.

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23 For their part, Plaintiffs believe that PTO 8 applies to disputes involving third party discovery
24 which are brought *by parties* such as Uber. Indeed, Plaintiffs and Uber agreed that PTO 8 governed
25 the Parties' submissions until this week. Because the subpoenas have been broken down into five
26 categories, with substantial overlap both within and across each category, extensive briefing is not
27 necessary or appropriate.

1 Plaintiffs propose that the Parties submit one 5-page submission for each of the five categories,
2 consistent with the PTO 8 submission requirements. Second, in the alternative, Plaintiffs propose that
3 the Parties submit one 5-page submission each for a selected, individualized example taken from each
4 of the five categories: (1) Capitol Tax Partners (lobbyist); (2) Sara Peters (plaintiff attorney); (3)
5 Nexar, Inc. (contractor); (4) Rape, Abuse, and Incest National Network (Rainn) (sexual violence
6 organization); and (5) Lyft. Once the Court has ruled on those subpoenas, the Parties could use the
7 Court's guidance and apply those rulings to the other subpoenas at issue, thereby cutting down on
8 future disputes presented to the Court. The Parties may then meet and confer and attempt to resolve
9 outstanding issues regarding other subpoenas and could present any lingering disputes to the Court in
10 subsequent PTO 8 submissions on a category-by-category basis (consistent with Plaintiffs' first
11 proposal). Plaintiffs' proposals are consistent with the PTO 8 requirements for discovery disputes
12 between the Parties, whereas Uber's proposal contemplates exactly the sort of extended briefing that
13 prompted the entry of PTO 8 in the first place.

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16 The Parties have met and conferred weekly regarding the subpoenas but have done so on a
17 category-by-category basis—not an individualized basis. At no time has Uber provided objections (or
18 proposed modifications or compromises) that are specific to any one entity. This efficient process
19 makes sense, and the parties have already ventilated their positions and reached impasse on categorical
20 issues. Uber's proposal throws sand in the gears for no apparent benefit. Over weeks of meet and
21 confers, Plaintiffs requested from Uber, but did not receive, entity-specific objections from Uber in
22 any form, such as a proposed order or a chart. Waiting for Uber to provide entity-specific objections,
23 then meet and confer, and then brief each one would take weeks or months. Plaintiffs do not anticipate
24 that there is any need for expansive, granular briefing on any one entity, much less all of them. To do
25 so would cause needless delay and burden the Court with presumably the type of paperwork and
26 surprise arguments that it sought to avoid with PTO 8. Plaintiffs assume that after several meet and
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1 confers, Uber would not raise new arguments that it has not previously disclosed to Plaintiffs, and thus
2 Plaintiffs remain willing to comply with the Court's vision for simultaneous submissions.

3 For its part, Uber believes PTO 8 is unclear as to its applicability to disputes over third party
4 discovery and, in any event, the PTO 8 procedures would need to be modified for a dispute between
5 the parties over 30 subpoenas with overlapping and individualized issues and arguments. Plaintiffs
6 implicitly concede that PTO 8 is inadequate to handle the third-party subpoena motions on a category-
7 by-category basis by requesting five pages instead of 2.5 pages per side. Uber believes that 5 pages
8 per side is insufficient to brief entire categories of subpoenas, many of which are to non-parties that
9 are differently situated and require individualized arguments. In order to both afford the parties a fair
10 opportunity to argue the issues and to avoid duplicative filings, Uber proposes that Uber's motion on
11 the 30 subpoenas be addressed in a single omnibus brief of no more than 45 pages, with Plaintiffs'
12 opposition of no more than 45 pages due 14 days thereafter, and Uber's reply of no more than 20 pages
13 due 9 days after that. Uber believes 45 pages is appropriate because: (1) there are 30 different
14 subpoenas at issue, many of which will require individualized arguments; (2) the default in the local
15 rules is 25 pages *per motion*; (3) even under Plaintiffs' proposal, the briefing would add up to 25 pages
16 per side across 5 separate briefs. If just one additional page was allowed per subpoena for briefing
17 individualized issues, that would result in a total of 55 pages. Uber's proposal—a single omnibus
18 brief addressing categorical and individual issues are briefed—is the most efficient and fair way to
19 present this dispute to the Court. And the page limit of 45 pages amounts to just 1.5 pages per
20 subpoena.
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24 Uber also believes that the PTO 8 procedure of a joint submission is not appropriate here.
25 Plaintiffs will need a reasonable amount of time to respond to the arguments raised by Uber, and Uber
26 will need to be able to respond to Plaintiffs' arguments. Uber proposes a timeframe of 14 days for the
27 opposition and 9 days for the reply, although if Plaintiffs would like less than 14 days for their
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1 opposition, Uber is amenable to that.

2 Uber believes that, if the Court is not inclined to permit an omnibus brief with sufficient pages
3 for Uber to make its arguments, Uber should be permitted to submit a separate PTO 8 letter brief for
4 each of the 30 subpoenas. Uber continues to analyze the subpoenas, some of which were aimed at law
5 firms that worked with Uber, potentially implicating privileged materials. Overall the subpoenas seek
6 all documents, including any and all communications with or regarding Uber since 2009 right down
7 to Post-Its. Moreover, the subpoenas overlap with a number of Plaintiffs' First Request for Production
8 (Set One) requests to Uber, for which Uber has identified and proposed custodians. Because the
9 subpoenas are not limited in time, scope, geography or subject matter, as mentioned, Uber must
10 conduct a broad, extensive review and analysis of issues to brief for the court for each of the
11 subpoenas.
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13 Uber notes that Plaintiffs' second proposal (only brief "exemplars") is insufficient to provide
14 third parties guidance on when to challenge their subpoena, which also weighs in favor of Uber's
15 proposal. If only one exemplar is chosen from each bucket, the third parties will not know the identity
16 of the chosen exemplar until May 31, and as a result all the third parties must produce, seek a protective
17 order, or object and face a motion to compel by Plaintiffs on May 31. Nor can the parties use a ruling
18 on an "exemplar" to short circuit the due process rights of nonparties. The Court should hear from all
19 parties about their interests and burdens under Plaintiffs' subpoenas in an organized fashion—like the
20 one Uber has proposed. Moreover, the individualized burdens and circumstances of each third party
21 make choosing or agreeing on exemplars unlikely.
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24 Uber also notes that the categories delineated by Plaintiffs are not appropriate for joint briefing.
25 In particular, the category "contractors that worked with Uber in varying capacities" is extremely
26 broad and encompasses entities that worked with Uber across a wide range of matters. If the Court
27 requires briefing on a category-by-category basis, this broad category should be divided into two
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categories: (1) driver safety and software entities; and (2) background check/H.R. entities. Additionally, the Chertoff Group should be included in the category “sexual violence advocacy organizations” (despite not being an advocacy organization) because the documents requested from Chertoff are similar, if not identical, to the requests made to those organizations.

Finally, Uber requests a briefing schedule as follows: Uber’s omnibus brief in support of its motions to quash is due on June 14, Plaintiffs’ opposition brief due June 28, and Uber’s reply brief due July 9. Extending the date for Uber’s opening brief to be filed until June 14 is appropriate in light of Uber’s diligence to meet and confer with Plaintiffs on its positions and to begin analyzing the contracts, scope of work, and potential documents for 30 different subpoena recipients (subject to subpoena demands with no limitations on time or scope), in light of Uber’s need for additional time to complete this review and prepare arguments for 30 subpoenas, and in light of the holiday weekend between now and the current deadline, May 31.

With the deadline for briefing currently set for May 31, the Parties respectfully request that the Court provide guidance on its preferred method of receiving and hearing these disputes.

DATED: May 24, 2024

Respectfully submitted,

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